

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

JOHNATHAN ROCKEY,

Petitioner,

Case No. 3:21-cv-26

vs.

WARDEN, LEBANON CORRECTIONAL
INSTITUTION,

Respondent.

District Judge Michael J. Newman
Magistrate Judge Michael R. Merz

**ORDER AND ENTRY: (1) ADOPTING THE REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE (DOC. 2) WITHOUT OBJECTION; (2)
DISMISSING PETITIONER'S PETITION WITH PREJUDICE; (3) DENYING A
CERTIFICATE OF APPEALABILITY; (4) CERTIFYING THAT ANY APPEAL
WOULD BE OBJECTIVELY FRIVOLOUS AND FINDING THAT *IN FORMA
PAUPERIS* STATUS SHOULD BE DENIED ON APPEAL; AND (5) TERMINATING
THIS CASE ON THE COURT'S DOCKET**

This civil case is before the Court on the Report and Recommendation (doc. 2) issued by United States Magistrate Judge Michael R. Merz, to whom this case was referred pursuant to 28 U.S.C. § 636(b). Noting that no objections have been filed and that the time for filing objections under Fed. R. Civ. P. 72(b) has expired, the Court hereby: (1) **ADOPTS** the Report and Recommendation (doc. 2) in its entirety; (2) **DISMISSES** that Petitioner's petition (doc. 1) **WITH PREJUDICE**; (3) **DENIES** Petitioner a certificate of appealability; (4) **CERTIFIES** that any appeal would be objectively frivolous and that Petitioner should be denied *in forma pauperis* on appeal; and (5) **TERMINATES** this case on the Court's docket.

IT IS SO ORDERED.

Date: February 11, 2021

s/ Michael J. Newman

Michael J. Newman
United States District Judge